

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-12522

Luis Beltran

v.

United States of America

CLERK'S CERTIFICATE

I, Tony Anastas, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 1/31/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on February 3, 2005.

Tony Anastas, Clerk of Court

By: *Jeanette Ramos*
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 3/3/05.

D Barchard
Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

[cv: apprec.] [cr: kapprec.]

APPEAL

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-12522-WGY

Beltran v. United States of America
Assigned to: Chief Judge William G. Young
Cause: 28:2255 Motion to Vacate / Correct
Illegal Sentenc

Date Filed: 11/29/2004
Jury Demand: None
Nature of Suit: 510 Prisoner:
Vacate Sentence
Jurisdiction: U.S. Government
Defendant

Petitioner

Luis Beltran

represented by **Luis Beltran**
23960-038
FCC Coleman Medium
P.O. Box 1032
Coleman, FL 33521-1032
PRO SE

V.

Respondent

United States of America

Date Filed	#	Docket Text
11/29/2004	•1	MOTION to Vacate, Set Aside or Correct Sentence (2255) , filed by Luis Beltran.(Bell, Marie) (Entered: 12/01/2004)
11/29/2004	•	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Collings. (Bell,

		Marie) (Entered: 12/01/2004)
12/01/2004	•	Judge William G. Young : ELECTRONIC ORDER entered re <u>1</u> Motion to Vacate/Set Aside/Correct Sentence (2255) filed by Luis Beltran. IT WAS NOT INADEQUATE ASSISTANCE OF COUNSEL TO FAIL TO APPRECIATE THE TRUE IMPLICATIONS OF APPRENDI v. NEW JERSEY AND PING v. ARIZONA. NO CIRCUIT COURT DID SO UNTIL AFTER BLAKELY v. WASHINGTON. BLAKELY, HOWEVER, IS NOT RETROACTIVE AND DOES NOT FALL WITHIN THE EXCEPTION OF TEAGUE v. LANE. ACCORDINGLY, THIS PETITION IS DENIED SUA SPONTE. BECAUSE THESE MATTERS ARE COMPLEX, A CERTIFICATE OF APPEALABILITY WILL ISSUES. cc.cl.(Bell, Marie) (Entered: 12/02/2004)
12/02/2004	•	Civil Case Terminated. (Bell, Marie) (Entered: 12/02/2004)
01/31/2005	•2	MOTION for Leave to Proceed in forma pauperis by Luis Beltran. c/s.(Bell, Marie) (Entered: 02/01/2005)
01/31/2005	•3	MOTION for Certificate of Appealability by Luis Beltran.(Bell, Marie) (Entered: 02/01/2005)
01/31/2005	•4	NOTICE OF APPEAL as to Order,, by Luis Beltran. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 2/22/2005. cc/cl.(Bell, Marie) (Entered: 02/01/2005)
02/02/2005	•	Judge William G. Young : Electronic ORDER entered granting <u>2</u> Motion for Leave to Proceed in forma pauperis, granting <u>3</u> Motion for Certificate of

	Appealability. cc/cl. (Bell, Marie) (Entered: 02/02/2005)
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